WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

SENATE BILL NO. 395

(BY MR. Common Jurd.)

PASSED March 12, 1955

In Effect 90 Days from Passage

Filed in the Office of the Secretary of State
of West Virginia—MAR. 17, 1955
D. Pitt O'Brien
SECRETARY OF STATE
AN ACT to amend and reenact sections twelve and thirteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to repeal section sixteen of said article of said chapter; and to amend article twelve of said chapter by adding thereto a new section, to be designated section thirteen-a, all relating to the improvement and clarification of the procedure of probation and parole.
Be it enacted by the Legislature of West Virginia:

That sections twelve and thirteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that section sixteen of said article of said chapter be repealed, and that article twelve of said chapter be amended by adding thereto a new section, to be designated section thirteen-a, all to read as follows:

Section 12. Board of Probation and Parole.—There shall be a state board of probation and parole, known as the "West Virginia Board of Probation and Parole." The board shall consist of three members, not more than two of whom shall at any one time belong to the same political party. The board shall be appointed by the governor by and with the advice and consent of the senate. Each member of the board shall have had experience in the fields of social science or administration of penal institutions and shall be familiar with the principles, practices and problems thereof and shall be otherwise competent to perform the duties of his office. The members shall be appointed for overlapping terms of six years, except that
the original appointments shall be for terms of two, four
and six years, respectively, such appointments to be made
beginning on the first day of July, one thousand nine hun-
dred fifty-three. Any member shall be eligible for re-
appointment. The members shall receive an annual sal-
ary, to be fixed by the governor, not to exceed seventy-
two hundred dollars and necessary expenses incurred in
the discharge of their official duties. The members of the
board shall devote their full time and attention to their
duties as members thereof.

Sec. 13. Powers and Duties of the Board; Eligibility;
Notice.—The board of probation and parole, whenever
it shall be of the opinion that the best interests of the
state and of the prisoner will be subserved thereby, and
subject to the limitations hereinafter provided, shall have
authority to release any such prisoner on parole for such
terms and upon such conditions as are provided by this
article. Any prisoner of a penitentiary of this state, to
be eligible for parole,
(1) Shall have served the minimum term of his in-
determinate sentence, or shall have served one-third of
his definite term sentence, as the case may be;
(2) Shall not be under punishment or in solitary con-
finement for any infraction of prison rules;
(3) Shall have maintained a record of good conduct
in prison for a period of at least three months immedi-
ately preceding the date of his release on parole;
(4) Shall have satisfied the board that, if released on
parole, he will conduct himself in a lawful manner and
that his release is not incompatible with the best interests
and welfare of society generally.
Except in the case of one serving a life sentence, no
person who has been previously twice convicted of felony
may be released on parole until he has served the mini-
mum term provided by law for the crime for which he
was convicted. No person sentenced for life may be pa-
roled until he has served ten years, and no person sen-
tenced for life who has been previously twice convicted
of felony may be paroled until he has served fifteen years.
In the case of a person sentenced to any penal institution
of this state, it shall be the duty of the board, as soon as
such person becomes eligible, to consider the advisability of his or her release on parole. If, upon such consideration, parole be denied, the board shall at least once a year reconsider and review the case of every prisoner so eligible, which reconsideration and review shall be by the entire board. If parole be denied, the prisoner shall be promptly notified.

In the case of any person sentenced to or confined under sentence in any city or county jail in this state, the board shall act only upon written application for parole. If such jail prisoner be under sentence on a felony conviction, the provisions hereof relating to penitentiary prisoners shall apply to and control his release on parole. If such person be serving time on a misdemeanor conviction, he shall be eligible for parole consideration, upon receipt of his written parole application and after time for probation release by the sentencing court or judge has expired.

The board shall, with the approval of the governor, adopt rules and regulations governing the procedure in the granting of parole. No provision of this article and none of the rules and regulations adopted hereunder are
intended or shall be construed to contravene, limit or otherwise interfere with or affect the authority of the governor to grant pardons and reprieves, commute sentences, remit fines or otherwise exercise his constitutional powers of executive clemency.

The board shall have general supervisory control over all court or county probation officers. It shall be charged with the duty of supervising all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the uniform act for out-of-state parolee supervision.

When considering a penitentiary prisoner for release on parole, the board of parole shall have before it an authentic copy of or report on the prisoner’s current criminal record as provided through the department of public safety of West Virginia, the United States department of justice or other reliable criminal information sources and written reports of the warden or superintendent of the penitentiary, as the case may be, to which such prisoner is sentenced,
(1) On the prisoner's conduct record while in prison, including a detailed statement showing any and all infractions of prison rules by the prisoner and the nature and extent of discipline and punishment administered therefor;

(2) On improvement or other changes noted in the prisoner's mental and moral condition while in prison, including a statement expressive of the prisoner's current attitude toward society in general, toward the judge who sentenced him, toward the prosecuting attorney who prosecuted him, toward the policeman or other officer who arrested him and toward the crime for which he is under sentence and his previous criminal record.

(3) On the prisoner's industrial record while in prison, showing the nature of his prison work or occupation and the average number of hours per day he has been employed in prison industry and recommending the nature and kinds of employment which he is best fitted to perform and in which he is most likely to succeed when he leaves prison.
(4) On physical, mental and psychiatric examinations of the prisoner conducted, insofar as practicable, within the two months next preceding parole consideration by the board.

The board may waive the requirement of any such report when not available or not applicable as to any prisoner considered for parole but, in every such case, shall enter in the record thereof its reason for such waiver.

Before releasing any penitentiary prisoner on parole, the board of parole shall arrange for him to appear in person before the board and the board may examine and interrogate him on any matters pertaining to his parole, including reports before the board made pursuant to the provisions hereof. The board shall reach its own written conclusions as to the desirability of releasing such prisoner on parole. The warden or superintendent shall furnish all necessary assistance and cooperate to the fullest extent with the board of parole. All information, records and reports received by the board shall be kept on permanent file.

The board and its designated agents shall at all times
have access to inmates imprisoned in any penal or correctional institutions of this state or in any city or county jail in this state, and shall have power to obtain any information or aid necessary to the performance of their duties from other departments and agencies of the state or from any political subdivision thereof.

The board shall, if so requested by the governor, investigate and consider all applications for pardon, reprieve or commutation, and shall make recommendation thereon to the governor.

Sec. 13-a. Eligibility Date for Parole.—When the prisoner has received an indeterminate sentence, the minimum sentence shall be considered as an eligibility date for parole consideration but does not confer in the prisoner the right to be released as of that date.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 16th day of March, 1955.

Governor

Filed in the Office, MAR-17 1955

Secretary of State of West Virginia